

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

MARY BISHOP,)	
SHARON BALDWIN,)	
SUSAN G. BARTON, and)	
GAY E. PHILLIPS,)	
)	
Plaintiffs,)	
)	
v.)	No. 04-CV-848-TCK-TLW
)	
UNITED STATES OF AMERICA, <i>ex</i>)	
<i>rel.</i> , ERIC H. HOLDER, JR., in his)	
official capacity as Attorney General of)	
the United States of America; and)	
SALLY HOWE-SMITH, in her official)	
capacity as Court Clerk for Tulsa County,)	
State of Oklahoma,)	
)	
Defendants,)	
)	
and)	
)	
BIPARTISAN LEGAL ADVISORY GROUP,)	
)	
Defendant-Intervenor.)	

MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF

Pursuant to LCvR 7.2(k), Plaintiffs move for leave to file a supplemental brief (attached as Ex. 1), not to exceed ten pages, addressing the effect of *United States v. Windsor* upon pending motions and cross motions for summary judgment. In support of their motion, Plaintiffs state as follows:

1. On June 26, 2013, the United States Supreme Court handed down its decision in *United States v. Windsor*, ___ U.S. ___, 133 S.Ct. 2675, ___, L.Ed.2d ___ (2013); the *Windsor* decision struck down Section 3 of DOMA, declaring it to be

constitutionally invalid. It held, *inter alia*, that Section 3 “violates basic due process and equal protection principles applicable to the Federal Government.” The Court further held that “[t]he Constitution’s guarantee of equality ‘must at the very least mean that a bare congressional desire to harm a politically unpopular group cannot’ justify disparate treatment of that group. ... In determining whether a law is motivated by an improper animus or purpose, ‘[d]iscriminations of an unusual character’ especially require careful consideration. ... DOMA cannot survive under these principles.”

2. In the wake of the *Windsor* decision, Plaintiffs desire leave to supplement their pending motion to address *Windsor*’s application and effect on the issues in this case. Said brief will not exceed ten (10) pages.

3. Pursuant to LCvR 7.2(k), requiring that each party’s consent or opposition to a supplemental filing be stated, counsel for the United States and the Tulsa County Court Clerk have stated they have no objection to the filing of this supplemental memorandum. The Bipartisan Legal Advisory Group (BLAG) has requested that the Court be furnished with the following statement of position: “The House takes the position that supplemental memoranda addressing the effect of the *Windsor* decision are premature, given that the question of whether the Court even has jurisdiction to reach the merits of plaintiffs’ claims remains unresolved at this time. The House reserves the right to file response.” Plaintiffs disagree with such position and submit that BLAG’s standing in this case ended upon the determination of Section 3’s constitutionality.

4. A proposed Order is submitted herewith.

RELIEF REQUESTED

WHEREFORE, Plaintiffs request this Court grant them leave to file a supplemental brief, not to exceed ten (10) pages, in support of their pending Motion for Summary Judgment.

Respectfully submitted,

s/Don G. Holladay

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that on July 16, 2013, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the current parties of record.

s/Don G. Holladay